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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Report on the mission to the Republic of Korea of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted pursuant to Commission on Human Rights resolution 1993/45

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Introduction

1. This report has been prepared pursuant to resolution 1993/45 of the Commission on Human Rights and decision 1993/268 of the Economic and Social Council. It analyses the information received by the Special Rapporteur on the right to freedom of opinion and expression, Mr. Abid Hussain, during his visit to the Republic of Korea from 25 to 30 June 1995, as well as information received from non-governmental organizations and individuals active in the field of his mandate concerning allegations of violations of the right to freedom of opinion and expression.

2. It had been the Special Rapporteur's intention to visit both the Republic of Korea and the Democratic People's Republic of Korea. However, the Government of the Democratic People's Republic of Korea indicated it was unfortunately not in a position to receive the Special Rapporteur at the time suggested by him. The Special Rapporteur expresses his sincere hope that such a visit will take place in due course, at the Government's earliest convenience.

3. The Special Rapporteur would like to express his gratitude for the cooperation extended to him by the Government of the Republic of Korea in discharging his mandate. He highly appreciates the assistance received from the Government in the organization of his visit. He would like to convey his gratitude especially to the Minister for Foreign Affairs and his staff who arranged meetings with Cabinet members and helped make his visit successful. All but a few of the Special Rapporteur's requests for meetings with government officials were met, even though these requests were forwarded to the Government at very short notice. Furthermore, the Special Rapporteur notes and appreciates the atmosphere of openness in which his visit took place, both in respect of its organization, whereby he was at great liberty to meet with all parties of concern to his mandate, and with respect to the substantive discussions concerning his mandate, which were invariably frank and constructive.

4. The Special Rapporteur would also like to express his appreciation to the Resident Representative and staff of the United Nations Development Programme in Seoul for their efficient organization of his visit.

5. During his visit, the Special Rapporteur met with representatives of the Government and Administration of the Republic of Korea, representatives and members of non-governmental human rights organizations, representatives and members of both officially recognized and unrecognized trade unions, representatives of the media and related organizations, members of the academic community, the judiciary and the legal profession, as well as with individuals who, through their professional activities or other experience, have a special knowledge of the subject-matter of the Special Rapporteur's mandate. He would like to refer especially to meetings, organized by non-governmental organizations, with former detainees and family members of detained persons convicted on charges relating to the National Security Law and involving their exercise of the right to freedom of opinion and expression. The Special Rapporteur was impressed by the courage and determination of the many men and women active in non-governmental organizations. A list of the persons with whom the Special Rapporteur met is

to be found in annex I to this document. It should be noted that this list is not exhaustive. The Special Rapporteur had the opportunity to meet with many other persons in the course of his visit. He would like to thank all persons with whom he met for their generous efforts to assist him during his visit to their country. Furthermore, he would like to clarify that no person with whom he spoke indicated a wish to remain anonymous. At the close of his visit, the Special Rapporteur gave a press conference at which he presented his initial views on the visit. In the present report, the Special Rapporteur considers those issues that were at the forefront of his discussions during his visit and that he deems most important in relation to his mandate.

I. RECENT DEVELOPMENTS

6. At the outset, the Special Rapporteur would like to mention that many measures have been taken by the Government of the Republic of Korea to strengthen the promotion and protection of human rights in general. The Special Rapporteur wishes to mention briefly some important steps, as well as other developments in recent years that have been brought to his attention. This brief account does not aim to present a complete picture of the current state of affairs regarding the protection of human rights in the Republic of Korea. It rather serves to illustrate the context in which his visit took place relating to the protection and promotion of the right to freedom of opinion and expression.

7. In 1993, the Government promulgated an amnesty for some of the prisoners convicted under previous regimes. In the same year, Cabinet Ministers initially expressed a willingness to examine the possibility of replacing the National Security Law with a law on the protection of public order in a democratic society. Some weeks later, however, the Government considered it necessary to retain the National Security Law for as long as the highly precarious security situation of the country would continue. Also in 1993, the Government acknowledged the necessity of revising interrogation procedures in order to prevent ill-treatment of detainees. Thereupon, the Prosecutor General's office announced guidelines to prevent obstruction of the visits of lawyers to detainees under interrogation. Later that year the Supreme Court established the Judicial System Development Committee for the purpose of examining the reform of the judiciary and the National Assembly passed a law restricting the investigative powers of the Agency for National Security Planning. In 1994, a parliamentary Intelligence Committee was established to oversee the Agency's work. In 1995, two months before the Special Rapporteur's visit, the Seoul Appellate Court acquitted defendant Mr. Lee Chang-bok, who had previously been sentenced to a 10-month prison term under the National Security Law. This was a landmark decision as it recognized the obligation to safeguard the right to freedom of expression of the defendant.

8. These steps reflect the extent to which human rights considerations are becoming part of the political and juridical agenda of the Republic of Korea. The Special Rapporteur recalls the general state of affairs of human rights protection in the 1980s and before, and notes the changes that have taken place since then, especially under the current, democratically elected

President, Kim Young-sam, who took office in December 1992 and who has, on many occasions, publicly committed himself to the cause of democracy and human rights.

9. The Special Rapporteur also recalls the comments of the Human Rights Committee on the occasion of its consideration of the initial report submitted by the Republic of Korea under article 40 of the International Covenant on Civil and Political Rights (CCPR/C/79/Add.6). The Human Rights Committee considered ordinary laws and criminal laws to be sufficient to deal with offences against national security. It did not see the necessity for a separate law on national security. It expressed its concern at the continued imprisonment of persons on grounds of their political opinions and recommended that the Republic of Korea should bring its legislation more into line with the provisions of the International Covenant on Civil and Political Rights. The Special Rapporteur also recalls decisions Nos. 29/1994 and 30/1994 adopted, on 29 September 1994, by the Working Group on Arbitrary Detention concerning the cases of three persons detained on charges under the National Security Law, among them Mr. Hwang Sok-yong (see para. 11 below). The Working Group decided these cases of detention were arbitrary in view of their contravening the right to freedom of expression guaranteed under article 19 of the International Covenant on Civil and Political Rights.

10. The Republic of Korea, in recent years, has shown a growing commitment to the values of democracy and respect for human rights, but remains a subject of concern to human rights mechanisms of the United Nations. The Special Rapporteur notes the astonishing level of economic development of the Republic of Korea, which could serve to strengthen further the country's commitment to human rights. It was in this context that the Special Rapporteur visited the Republic of Korea. With the intention of assisting the Government of the Republic of Korea in its continuing efforts to strengthen the protection of human rights, he would like to express his principal observations and concerns on a number of issues regarding the right to freedom of opinion and expression.

II. Principal observations and concerns

The case of Mr. Hwang Sok-yong

11. In his most recent report to the Commission on Human Rights (E/CN.4/1995/32, paras. 116-118), the Special Rapporteur referred to allegations received concerning infringements of the right to freedom of opinion and expression of the writer Mr. Hwang Sok-yong, who has been convicted and sentenced to a seven-year prison term under the National Security Law. The Special Rapporteur appreciated the opportunity of being able to meet in prison with Mr. Hwang, who appeared to be in good health and who shared valuable information with him. In the present report, for the purpose of clarifying some of his concerns, the Special Rapporteur at times refers to statements Mr. Hwang addressed to him. He would like to stress, however, that these references are without prejudice to the examination of the issue of the detention of Mr. Hwang, concerning which the Special Rapporteur is seeking to continue his dialogue with the Government of the Republic of Korea.

The National Security Law

12. The Special Rapporteur was informed of a number of controversies that have arisen over the exercise of the right to freedom of opinion and expression by certain persons as related to the safeguarding of the national security of the Republic of Korea.

13. The Special Rapporteur notes that article 7(1) of the National Security Law makes it an offence, punishable by up to seven years' imprisonment, for any person to praise, encourage, propagandize or side with the activities of an anti-state organization. Articles 4, 5 and 8 of the National Security Law furthermore make it a punishable offence to collect, divulge or transmit state secrets or materials benefiting the enemy, to receive materials or money from anti-state organizations, and to meet or communicate with members of anti-state organizations.

14. Reportedly, at the time of the Special Rapporteur's visit, several hundred people were either facing arrest or had been arrested, charged or convicted under the National Security Law, mostly under article 7 thereof. Many cases where the right to freedom of expression of defendants has been restricted on the grounds of protecting national security have been brought to the attention of the Special Rapporteur. These cases include convictions on the following grounds: visiting the Democratic People's Republic of Korea without the prior authorization of the authorities of the Republic of Korea; contacting or speaking with citizens or officials of the Democratic People's Republic of Korea and passing on information of a general character to these persons; expressing socialist views in general; criticizing government policy with regard to the Democratic People's Republic of Korea.

15. The Special Rapporteur notes that the right to freedom of expression can, under international human rights law, be restricted only in the most serious cases of threats to national security. He refers in this regard to paragraphs 48 to 51 of his second report to the Commission on Human Rights (E/CN.4/1995/32).

16. The Special Rapporteur notes that only in highly exceptional cases can a nation's security be directly threatened by a person's exercise of the right to freedom of expression. Such a threat would require, at the very least, the clear establishment of the person's ability and intention to cause the taking of actions directly threatening national security, in particular by propagating or inciting the use of violence. In no instance may the exercise of the right to freedom of expression be punished on the mere ground that it might, possibly, jeopardize national security. It is for the State to establish what consequences would ensue and why they would constitute a direct threat to national security.

17. The Special Rapporteur observes a lack of precision with respect to the scope and meaning of some key concepts which arise in the application of the National Security Law. These include "praising, encouraging and propagandizing of activities of an anti-State organization", and "materials benefiting the enemy". He notes with concern that the National Security Law, as interpreted by the courts, criminalizes the expression of thoughts, beliefs or opinions on public matters, including government policies, as well as the

possession of publicly available materials of a general or academic nature. He profoundly regrets that the quotation of publicly available materials and statements of a highly general or even trivial character are being sanctioned on the assumption that, in some way that is not explicitly specified, they benefit an anti-state organization. Moreover, he notes with concern that the rules of evidence applied in cases concerning the National Security Law do not require the establishment of intent or definite awareness on the part of defendants that the acts for which they have been charged (as stipulated in art. 4, paras. (1) to (4) were actually "benefiting the enemy". The Special Rapporteur notes that persons have been convicted on the basis that they should have been aware that their actions, including the mere possession of publicly available academic works, were "benefiting the enemy".

18. The Special Rapporteur notes with great concern that in most of the cases referred to him concerning the application of the National Security Law not very convincing arguments have been presented to justify the restrictions imposed on the right to freedom of expression. He also notes with concern the apparent absence of any consideration of the State's obligation to protect the defendant's right to freedom of expression or of the right to information of the public at large in legal proceedings involving the exercise of the right to freedom of expression and the upholding of national security. The above-mentioned case of Mr. Lee Chang-bok (see para. 7) is a rare exception. Furthermore, to the knowledge of the Special Rapporteur, in none of these cases has a convincing causal link been established between the content of opinions for the expression of which persons have been charged and convicted and a serious and direct political or military threat to the nation. No reference is made to clearly identifiable, adverse consequences for the nation's security of the expression of the opinions in question. Consequently, the necessity for and effectiveness of the restrictions imposed on the right to freedom of opinion and expression cannot be properly considered in these legal proceedings.

19. The Special Rapporteur further notes with concern the broad discretion of the Agency for National Security Planning to investigate cases concerning the safeguarding of national security, and fears its arbitrary exercise. Unfortunately, the Special Rapporteur was not provided with the opportunity to meet officials of the Agency to seek information and clarification on its position with regard to the protection of national security and its application of the powers entrusted to it. The Special Rapporteur learned, however, that officers of the Agency for National Security Planning are apparently in a position to put pressure on persons who are arrested, charged or convicted for statements considered criminal under the National Security Law. The Special Rapporteur fears this might lead to unwarranted interference by the Agency with the due process of the law.

20. The case of Mr. Hwang Sok-yong (see para. 11 above), illustrates this point. He informed the Special Rapporteur that his wife and son were living in the United States of America and could not return to the Republic of Korea because they feared being arrested upon their arrival. Mr. Hwang was convicted on the charge inter alia of having visited the Democratic People's Republic of Korea without authorization from the competent authorities of the Republic of Korea, i.e. the Agency for National Security Planning. His wife and son accompanied Mr. Hwang on this visit and thus, presumably, face

similar charges. However, according to Mr. Hwang, officers of the Agency for National Security Planning promised him his wife and son could return to their country without being arrested if he would cooperate with the Agency's investigation into his case. More recently, it appears, officers of the Agency informed Mr. Hwang that the time was not yet appropriate for the return of his wife and son. The Special Rapporteur fears that the Agency's officers were motivated by considerations quite independent of the case of Mr. Hwang.

21. On the basis of the above considerations, the Special Rapporteur is compelled to conclude that the wording and implementation of the National Security Law of the Republic of Korea fail to offer adequate protection of the right to freedom of opinion and expression as provided for by applicable international human rights law, including article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights, to which the Republic of Korea became a party in 1990.

Freedom of opinion

22. It has been brought to the attention of the Special Rapporteur that prisoners who allegedly hold particular political convictions are requested by prison authorities to renounce those convictions. According to the information received by the Special Rapporteur, this practice is based on an administrative regulation issued by the Ministry of Justice in 1969, the purpose of which is to facilitate the social rehabilitation and monitoring of prisoners after their release.

23. If prisoners do not comply with this request, they face sanctions. These include their applications for release on parole not being considered, being deprived of their privileges, and restrictions on their rights with respect to correspondence and visits.

24. The Special Rapporteur considers that this practice, irrespective of its purpose, is in breach of the right to freedom of opinion provided for in article 19 of the Universal Declaration on Human Rights and article 19 of the International Covenant on Civil and Political Rights. In this respect, the Special Rapporteur refers to chapter I, section B of his previous report to the Commission on Human Rights (E/CN.4/1995/32), which deals with restrictions and limitations of the right to freedom of expression. He specifically refers to paragraph 39 of that report, wherein he states that no interference with the right to hold opinions is allowed.

25. The Special Rapporteur considers, furthermore, that the said practice violates the right to freedom of opinion and expression of detainees. The Special Rapporteur would like to refer to Principle 6 (1) of the 1957 Standard Minimum Rules for the Treatment of Prisoners and Principle 2 of the 1990 Basic Principles for the Treatment of Prisoners, which prohibits discrimination on grounds of political or other opinion. The practice of sanctioning the non-compliance of prisoners with the request to renounce their ideological convictions is not in conformity with these internationally recognized principles.

26. In some cases brought to the attention of the Special Rapporteur where prisoners do not comply with the request to renounce their political convictions, they apparently do not wish to do so because they consider this as admitting to an opinion which they claim never to have possessed. Quite apart from the consideration that international human rights law does not permit any sanction, legal, administrative or otherwise, for merely holding a political opinion, the subsidiary question arises here of prisoners effectively being asked to incriminate themselves retroactively, which is in contravention of Principle 21.1 of the 1988 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which prohibits, inter alia, taking undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to incriminate himself.

Freedom of expression of detainees

27. The Special Rapporteur has been pleased to learn that, in general, prison conditions have improved considerably in recent years. Yet, he would like to express his concern on some issues relating to the freedom of expression of detainees.

28. The Special Rapporteur notes that the general regime for the administration of prisons is in large measure based on a law on prisons promulgated under Japanese occupation in 1923. He was furthermore informed that prisoners, as well as prison warders, were generally of the opinion that the regime resulting from this law should be changed and adapted to developments that have since taken place in the protection of human rights in general and the rights of prisoners in particular.

29. In reply to a request of the Special Rapporteur, the detained Mr. Hwang Sok-yong informed the Special Rapporteur of a number of incidents relating to his writing activities in prison. Mr. Hwang explained that he needed the approval of the Ministry of Justice for the publication of his books. Mr. Hwang cited as an example his attempt to reprint one of his publications with an updated preface, to be written in prison. He explained that in reply to his request for paper, the prison authorities asked him to indicate the number of pages he envisaged writing and added that if he wanted to write 10 pages they would provide him with 10 blank pages and if he wanted to write 20 pages they would provide him with 20. Mr. Hwang informed the prison authorities that if that were the case he preferred to write the preface in the form of a letter, whereupon the prison authorities provided him with two postcards. After having written his preface using the space available on the two postcards provided to him, Mr. Hwang stated, the prison authorities requested him three times over to rewrite what he had written on those two postcards. In the end, Mr. Hwang explained, after having revised his preface three times, he had effectively been able to use the space available on one of those two postcards.

30. Mr. Hwang furthermore explained that before receiving approval from the prison authorities to write on whatever subject, or even to keep notes or to write on anything personal and not intended for publication, he first had to indicate the subject on which he wanted to write. The subject had then to be reviewed by the Ministry of Justice before paper was made available to him by the prison authorities. Furthermore, what he had written was reviewed by the

prison authorities after completion. Mr. Hwang concluded that he preferred not to write at all under these circumstances, which in his opinion merely led to discussions on what topics were the most appropriate for him to write on.

31. The testimony of Mr. Hwang captures the atmosphere of the prison regime. The Special Rapporteur observes that Mr. Hwang Sok-yong is not free to engage in his writing activities within limits reasonably necessitated by his incarceration. He is concerned that prison conditions in general do not fully reflect applicable standards, including those governing the right to freedom of opinion and expression of detainees. In this connection, the Special Rapporteur would like to refer to the 1990 Basic Principles for the Treatment of Prisoners, of which Principle 5 reads in full:

> "Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration on Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants."

Freedom of expression in the workplace

32. The Special Rapporteur was informed of a number of problems in the exercise of freedom of expression in the workplace. He notes that article 13 (2) of the Labour Dispute Mediation Act prohibits anyone who has no immediate connection to a workplace where a dispute between workers and employers is taking place from intervening in that dispute. Violation of this prohibition on what is commonly referred to as "third party intervention" carries a maximum penalty of five years' imprisonment. He also notes that article 3 of the Trade Union Law prohibits the establishment of trade unions or trade union federations if these duplicate or interfere with the work and purpose of existing trade unions or trade union federations.

33. The Special Rapporteur notes with concern that a number of persons who have been imparting information to workers on legitimate trade union action or the Government's labour policies have been arrested or are facing arrest on charges of illegal intervention in a labour dispute.

34. The Special Rapporteur holds the view that freedom to associate in trade unions is a prerequisite of the effective collective expression of labour-related opinions, including grievances. Trade unions assist individual workers, among others, in their exercise of the right to seek and receive information for the purpose of arriving at a well-informed opinion on their professional circumstances and activities related thereto. Trade unions, furthermore, make possible public discussion on issues that regard not only their members but society at large, such as legislation on labour, taxation and welfare. As such, they perform an essential function in a democratic society that respects human rights.

35. The Special Rapporteur, taking into account the purpose of trade unions, which is principally to protect the interests of their members, considers that there must be room for more than one union. A worker must be able to choose the union which, in his opinion, protects his interests best. He must also have the freedom to associate with other workers to form a new trade union if he considers that existing trade unions do not effectively protect his interests. In such cases, the forming and joining of a new trade union cannot be construed as interference with the work of pre-existing trade unions.

36. The Special Rapporteur observes that article 3 of the Trade Union Law effectively amounts to a general prohibition on forming or joining a trade union of one's choice. It impairs the legitimate exercise of the right to freedom of opinion and expression in the workplace.

37. The Special Rapporteur also observes that the legal regime covering trade union activities in practice prevents workers from freely seeking, receiving and imparting information essential for forming a balanced opinion on matters relating to their professional activities and development. This includes advice given to workers, irrespective of their union membership, about their labour rights. In addition, the Special Rapporteur has found that this legal regime in practice prevents the full enjoyment of the right to freedom of assembly and association, which is intimately linked to the full enjoyment of the right to freedom of opinion and expression. He refers in particular to the status of the Korean Council of Trade Unions, which is seeking to be established alongside the only legally established nationwide trade union, the Federation of Korean Trade Unions.

38. The Special Rapporteur, considering his mandate, does not wish to address questions uniquely or mainly relating to freedom of assembly and association. Yet, noting the close connection of these freedoms to the freedom of opinion and expression, he would like to recall the recommendations offered to the Government of the Republic of Korea by the Committee on Freedom of Association of the International Labour Organization (ILO) in 1993, which called, inter alia, for the repeal of the ban on "third party intervention". Due regard should also be given to two important ILO Conventions: Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise and Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively. Both Conventions have been elaborated upon and clarified by the competent organs of the ILO.

Performance Ethics Committee

39. The Special Rapporteur notes that performing artists in the Republic of Korea are required to submit the text or recording of their performance, prior to its publication, to the Performance Ethics Committee. Under the Performance Act, the Movies Act and the Act concerning Records and Video Materials, the Performance Ethics Committee is empowered to withhold authorization for publication on various grounds, including the upholding of public morals. In practice, the Performance Ethics Committee at times requests performing artists to review their submissions before authorizing publication.

40. The Special Rapporteur considers that any system of prior restraint on freedom of expression carries with it a heavy presumption of invalidity under international human rights law. Any institutionalization of such restraint adds further weight to this presumption. In his opinion, the protection of the right to freedom of opinion and expression and the right to seek, receive and impart information would be better served, not by routinely submitting specific types of expression to prior scrutiny, as is currently the case under the Performance Ethics Committee, but rather by initiating action after publication, if and when required. Such an approach would bring the Committee's considerations on the protection of the public interest into the public arena, which would considerably enhance the degree of public knowledge and appreciation of any necessary protection. It would, furthermore, offer an adequate safeguard against possible unduly restrictive administrative measures. While not excluding the possibility of legitimate and necessary prior restraint on the exercise of the right to freedom of expression, the Special Rapporteur would want to express his concern about leaving such prior constraints on this right, which is vital to a democratic society, to administrative procedure and not public legal procedure.

41. The Special Rapporteur recalls paragraph 55 of his previous report (E/CN.4/1995/32) where he stresses the importance of the protection of freedom of expression of minority views, including those views that might be offensive or disturbing to a majority. Such protection applies especially to views expressed by means of the performing arts, as well as to the arts in general, in view of the special character and function of artistic expression.

Press and media

42. The Special Rapporteur was informed that the situation of the press and media had improved since the previous regime. At the same time, the press today seems to face a number of pressures. These are in part related to its own success, which leads to fierce competition, and in part due to financial difficulties faced by certain press organs, especially those owned by small companies. In other part these pressures stem from the structure of ownership of the press. Press management appears to align closely with the interests of the owner companies, mostly local businesses that have profited from the building boom in recent years. The absence of a strong tradition of editorial independence and balanced labour relations leads to a working climate that can at times cause difficulties for press professionals.

43. In addition, the Special Rapporteur was informed of cases where libel suits have led to the arrest of journalists who reported critically on members of the Government. He was also informed of the imposition of fines following critical news reports. These fines are reportedly of an amount that could threaten the survival of the press and media institutions concerned. In a democratic society, government institutions should be open and responsive to all criticism, even when at times it is critical of personalities. The function of the press as a public watchdog and the right of the public to be informed are of great importance. They should not suffer from a climate in which the press and media fear the consequences of their statements delivered in good faith and in the interest of the public.

Cases of concern to the Special Rapporteur

44. The Special Rapporteur is seeking further information from the Government of the Republic of Korea on a number of persons about whom information received by the Special Rapporteur, both before and during his visit, appears to indicate undue restriction of their right to freedom of opinion and expression. After having carefully considered all information necessary to arrive at a well-informed opinion, the Special Rapporteur will present his observations on these cases, if he sees it to be appropriate.

45. The Special Rapporteur has noted with appreciation the special amnesty granted by the Government, as of 15 August 1995, six weeks after his visit, to a large number of prisoners on the occasion of the fiftieth anniversary of the independence of Korea. He has been informed that some of the persons about whom he expressed his concern have had their prison sentences suspended and have been released.

III. RECOMMENDATIONS

46. On the basis of the principal observations and concerns described in the previous section, the Special Rapporteur would like to make the following recommendations. The Special Rapporteur recalls the constructive nature of the exchange of views with the Government during his visit and is confident that his recommendations will be received in a spirit of mutual commitment to strengthening the protection and promotion of the right to freedom of opinion and expression.

(a) The Government of the Republic of Korea is strongly encouraged to repeal the National Security Law and to consider other means, in accordance with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to protect its national security.

(b) The practice of requesting prisoners who allegedly hold political opinions repugnant or unpalatable to the establishment to renounce such opinions should cease. All sanctions under prison or social rehabilitation regimes emanating from non-compliance on the part of prisoners with this request should cease.

(c) All prisoners who are held for their exercise of the right to freedom of opinion and expression should be released unconditionally. The cases of prisoners who have been tried under previous Governments should be reviewed, due account being taken of obligations arising under the International Covenant on Civil and Political Rights. In this respect, the obligation to protect the right to freedom of opinion and expression cannot be seen in isolation from other obligations arising under the Covenant, notably concerning the right to a fair trial.

(d) The Government is encouraged to revise the Labour Dispute Mediation Act and the Trade Union Act so as to facilitate legitimate trade union activities, including the expression of well-informed collective opinions by workers on matters relating to labour disputes and collective bargaining.

(e) The Government is encouraged to continue its efforts to align its national law with the provisions relating to freedom of opinion and expression of the International Covenant on Civil and Political Rights, in particular by introducing more explicit national legislation to facilitate the attainment of a proper balance in the judiciary's efforts to protect human rights in general and the right to freedom of opinion and expression in particular.

(f) The Government is encouraged to take steps to enhance the systematic application of international human rights law in the national legal system, especially concerning the right to freedom of opinion and expression. The Government is invited to consider disseminating appropriate human rights materials, including case-law, to the judiciary and the larger legal profession, and to seek the participation of practising judges and lawyers in seminars or courses on the application of international human rights law.

(g) The Government of the Republic of Korea is encouraged to take the necessary steps to bring its prison regime into accordance with established international principles on the administration of justice so as to protect effectively the right to freedom of opinion and expression of detainees.

(h) The Government is encouraged to limit administrative interference with the right to freedom of expression and to substitute public legal procedure for existing administrative procedure, especially with regard to prior constraints on this right.

Annex

PERSONS WITH WHOM THE SPECIAL RAPPORTEUR MET DURING HIS VISIT

The Government of the Republic of Korea

Mr. GONG Ro-myong	Minister for Foreign Affairs
Mr. KIM Do-hyun	Vice-Minister of Culture and Sports
Mr. KIM Jong-koo	Vice-Minister of Justice
Mr. LEE Kyeong-jae	Vice-Minister of Information

Non-governmental human rights organizations

Mr. KANG Je-yoon	Secretary, Catholic Human Rights Committee
Mr. LEE Sock-bum	Lawyer, Catholic Human Rights Committee
Ms. NAM Kyu-sun	Secretary-General, Human Rights Group "MINKAHYUP"
Mr. LEE Seong-hoon	International Coordinator, Korean Human Rights Network "KOHRNET"
Mr. NOH Tae-hoon	Secretary-General, Centre for Human Rights "SARANBANG"
Ms. CHOI Eun-ah	Member, Centre for Human Rights "SARANBANG"
Mr. LEE Suk-tae	Attorney at law, Secretary-General of "MINBYUN" - Lawyers for Democracy
Mr. LEE Don-myung	Senior member, "MINBYUN"
Mr. MOON Dok-su	President, International PEN, the Korean Centre
Mr. LEE Tae-dong	General Secretary, International PEN, the Korean Centre
Mr. CHANG Baek-il	Vice-President, International PEN, the Korean Centre
Mr. KIM Si-chul	Vice-President, International PEN, the Korean Centre
Mr. KIM Moon-soo	Vice-President, International PEN, the Korean Centre

Trade unions and trade union activists

Mr. HEO Young-koo	General Secretary, Korean Council of Trade Unions
Mr. LEE Yong-bum	Executive Committee Member, Korean Council of Trade Unions

Ms. JUNG Hae-sook	President, Korean Teachers and Educational Workers Union "CHUNKYOJO"
Mr. LEE Dong-jin	Chairperson of Solidarity Committee, "CHINKYOJO"
Mr. SHON Seok-choon	Director of Policy Planning, Korean Federation of Press Unions

Media, press and related organizations

Mr. NAM Si-uk	President, Korea Newspaper Editors' Association
Mr. HWANG Myong	Poet, President, Korean Literary Writers' Association
Mr. JONG Chul-park	Secretary-General, Korean Literary Writers' Association
Mr. AHN Jae-hwi	President, Journalists' Association of Korea

Academic community

Mr. CHIANG Sang-hwan	Assistant Professor, Department of Economics, Gyeong Sang National University
Mr. KIM Chong-yang	President, Hanyang University
Mr. KIM Kyung-min	Vice-Dean, Office of International Cooperation, Hanyang University
Mr. CHOI Sung-chul	Dean, College of Social Sciences, Hanyang University
Mr. OH Myeung-ho	Vice-President, Department of Political Science and Diplomacy, Hanyang University
Mr. HAN Sung-joo	President, International Relations Institute "ILMIN", Korea University Former Minister for Foreign Affairs.

Members of the judiciary and the legal profession

Mr. LEE Young-mo	Secretary-General, Constitutional Court
Mr. SEO Sang-ho	Senior Research Officer of the Constitutional Court, Presiding High Court Judge
Mr. SUH Sung	Vice-Minister of Court Administration, Supreme Court
Mr. PARK Il-hoan	Judge
Mr. KIM Yong-dug	Judge of Seoul High Court Planning Director, Ministry of Court Administration, Supreme Court of Korea

Mr. KIM Sung-nam	Attorney at law Secretary-General, Korean Bar Association
Mr. HA Kyung-chull	Attorney at law Executive Director of Human Rights, Korean Bar Association
Mr. CHANG Soo-kil	Attorney at law Executive Director of Public Relations, Korean Bar Association
Mr. KIM Seon-soo	Attorney at law
Mr. CHUN Jung-bae	Attorney at law, representing the singer Joung Tae-choon

Selected individuals

Mr. JOUNG Tae-choon	Singer
Mr. HWANG Sok-yong	Writer, serving a seven-year prison sentence under the National Security Law
Mr. KIM Dae-jung	Chairman, Kim Dae-jung Peace Foundation for the Asia-Pacific Region

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